

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

UNITED STATES OF AMERICA,

v.

Criminal Case No. 3:22cr101

MICHAEL RAFAEL BERKLEY,

Defendant.

MEMORANDUM ORDER

This matter comes before the Court on Defendant Michael Rafael Berkley's Motion to Recuse Judge Lauck for Violations of His 6th Amendment, His 4th Amendment, and Right to Due Process (the "Motion"). (ECF No. 65.) In the Motion, Defendant states that the undersigned should "recuse herself or be recused from the current criminal matter and all future proceedings involving [him] because of [b]ias and [p]rejudice towards" him, and that the "[b]ias and [p]rejudice has [severely] impacted [his] right to [d]ue [p]rocess and a fair and impartial proceeding." (ECF No. 65, at 1.) He also outlines perceived instances of improper behavior by the undersigned.

The bar for recusal is high, as "courts have only granted recusal motions in cases involving particularly egregious conduct." *Belue v. Leventhal*, 640 F.3d 567, 573 (4th Cir. 2011). The Court has reviewed Defendant Berkley's Motion and finds no basis for recusal. The Court has not expressed "deep-seated favoritism or antagonism that would make fair judgment impossible." *Liteky v. United States*, 510 U.S. 540, 555 (1994). The Court harbors no bias against Defendant Berkley, and Defendant Berkley has not demonstrated any circumstance in which the impartiality of

this Court might be reasonably questioned. *See* 28 U.S.C. §§ 144,¹ 455;² *see also* Code of Conduct for United States Judges, Canon 3(C) (describing instances in which a judge's impartiality might be questioned).

Accordingly, upon due consideration, the Court DENIES the Motion. (ECF No. 65.) The undersigned will not recuse herself from this matter.

The Clerk is directed to provide a copy of this Order to Defendant Berkley and to all counsel of record.

It is SO ORDERED.

Date: 12/15/2022
Richmond, Virginia



M. Hannah Lauck
United States District Judge

¹ The statute provides, in relevant part:

Whenever a party to a proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith.

28 U.S.C. § 144.

² The statute provides, in relevant part:

(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding

28 U.S.C. § 455.